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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/959,125	10/28/97	HIGUCHI	20111-0014

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IM62/0716

EXAMINER
ALEXANDER, L

ART UNIT	PAPER NUMBER
1743	9

DATE MAILED: 07/16/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

# Office Action Summary

Application No.  
**08/959,125**

Applicant(s)  
**Higuchi et al.**

Examiner  
**Lyle A. Alexander**

Group Art Unit  
**1743**



☒ Responsive to communication(s) filed on Apr 30, 1999.

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-5 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-5 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Koyama, Terahima or EP 162,302.

These references cited by Applicants in the 10/2/98 IDS all teach test devices with a reagent layer having the claimed reflective layer in combination with the claimed polymer.

***Response to Arguments***

3. Applicant's arguments filed 4/30/99 have been fully considered but they are not persuasive.

Applicants state the interconnected void structure zone in Koyama et al. is different from the reagent layer of the present invention. The instant claim language is open which would not exclude additional layers. Further, Applicants state the matrix of Koyama et al. is "harder" than that of the invention. These remarks are not commensurate in scope with the instant claims and are confusing because Koyama et al. teaches the same "PET" polymer as the instant invention.

Applicants state Terahima et al. teach the light blocking particles are dispersed in the hydrophilic film which is an independent layer separate from the reagent layer. As stated above the instant claim language is open and does not exclude a multi layer structure.

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Applicants state EP 162,302 teaches light shielding particles dispersed in the form of particles in the hydrophilic polymer. The instant claim language is not specific to the dispersion of the particles and is sufficiently broad to have been properly read on EP 162,302.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is (703) 308-3893.

LAA

July 15, 1999

  
LYLE A. ALEXANDER  
PRIMARY EXAMINER